ACLU
AMERICAN CIVIL LIBERTIES UNION of CONNECTICUT
FOUNDATION

May 24, 2006

Department of Public Utility Control
10 Franklin Square
New Britain, CT 06051

Re: Complaint and request for investigation of AT&T and Verizon, and rulemaking regarding disclosure of customer information

AMERICAN CIVIL LIBERTIES UNION FOUNDATION OF CONNECTICUT
32 GRAND STREET
HARTFORD, CT 06106
T/860.247.9823
F/860.728.0287
WWW.ACLUCT.ORG

Dear Commissioners:

The American Civil Liberties Union of Connecticut ("ACLU-CT"), on behalf of its approximately 12,000 members and supporters in Connecticut, respectfully requests that the Department of Public Utility Control ("DPUC") investigate whether AT&T and/or Verizon have disclosed customer information of their customers in Connecticut to the National Security Agency ("NSA") without warrants, court orders or subpoenas. ACLU-CT is a nonprofit, nonpartisan, public interest organization incorporated in the State of Connecticut that is devoted to protecting the basic civil liberties of all people in Connecticut.

Google Inc. et al v. Egger et al

Based upon national media reports, and a review of applicable law, we believe that AT&T and/or Verizon may have violated Connecticut law. The DPUC has the authority to investigate this matter and to take appropriate action, including promulgation of regulations specifically prohibiting such warrantless disclosures of customer information to law enforcement agencies.

Doc. 596 Att. 2

We allege the following:

1. Pursuant to a sale on November 18, 2005, AT&T Inc. owns SBC Communications, Inc., d/b/a Southern New England Telecommunications Corporation ("AT&T Connecticut") and Woodbury Telephone Company ("AT&T Woodbury").

2. AT&T Connecticut and AT&T Woodbury (and related entities collectively "AT&T") and Verizon New York (and related entities collectively "Verizon") are certified by the DPUC to provide telecommunications services in Connecticut.

3. AT&T and Verizon provide wireless service, local service and long distance service in Connecticut.

4. On May 11, 2006, the USA Today newspaper published an article about a previously undisclosed database of telephone calls held by the NSA. *See* Leslie Cauley, "*NSA Has Massive Database of Americans' Phone Calls*," USA Today, May 11, 2006 (Attached hereto as Exhibit A). The paper reported that the database includes records of all telephone calls made from shortly after September 11, 2001 to the present by customers of AT&T (and the former SBC d/b/a/ SNET), Verizon, and Bell South. The database includes billions of phone records from over 200 million customers. *Id.*

5. The database reportedly includes dozens of fields of information from calling records including called and calling numbers, time, date, direction of calls, and other details. Using this information, the NSA can easily determine the names and addresses associated with these calls by cross-referencing other, readily available databases. *See id.*; John Markoff, "*Questions Raised for Phone Giants in Spy Data Furor*," N.Y. Times, May 13, 2006 (Attached hereto as Exhibit B); John O'Neil and Eric Lichtblau, "*Qwest's Refusal of N.S.A. Query is Explained*," N.Y. Times, May 12, 2006 (Attached hereto as Exhibit C).

6. According to one source quoted in the USA Today article, the database is the "largest . . . ever assembled in the world." The NSA's goal is "to create a database of every call ever made." *See* Cauley, May 11, 2006. The database is accessible not just by the NSA, but also by the Central Intelligence Agency, the Federal Bureau of Investigation, and the Drug Enforcement Agency. *Id.*

7. It is reported that AT&T and Verizon made these telephone records available to the NSA on a purely voluntary basis. They were not disclosed pursuant to compulsion of any legal process such as a warrant, court order, or subpoena. *Id. See also* Markoff, May 13, 2006 (reporting that Qwest declined NSA's request for customers' calling records after learning that "no warrant or other legal process had been secured in support of that request"). In discussions with the telephone companies, NSA reportedly "made it clear it was willing to pay for cooperation" by the telephone companies. The companies are reportedly still working "under contract" with the NSA. Cauley, May 11, 2006.

8. Upon information and belief, AT&T and Verizon did not obtain their customers' permission to provide their calling information to the NSA.

9. Since the USA Today story, neither the NSA nor the Bush Administration has denied the existence of the database.

10. Verizon recently issued a carefully-worded statement that "[f]rom the time of the 9/11 attacks until four months ago," none of Verizon's then-existing

businesses provided customer records or call data. *See* Verizon Statement (May 16, 2006) (Attached hereto as Exhibit D). Verizon acquired MCI Technologies four months ago.

11. AT&T has stated that "[w]e do not comment on national security matters, we act in full compliance with the law and we are committed to safeguarding our customers' privacy." *See* Cauley (May 11, 2006).

12. AT&T and Verizon have privacy policies that prohibit the disclosure of private call information, termed customer proprietary network information ("CPNI"), to outside parties without customer permission or legal process. *See* SBC Privacy Policy, http://att.sbc.com/gen/privacy-policy?pid=2506 (last visited May 23, 2006) (Attached hereto as Exhibit E); Verizon Privacy Policy, http://www22.verizon.com/about/privacy/customer (last visited May 13, 2006) (Attached hereto as Exhibit F).

13. The AT&T policy states that it "respects and protects the privacy of our customers. As a provider of telecommunications services we recognize that we must ensure the confidentiality of every customer's telephone calling and account information." It states that it does not sell the CPNI of its customers. Under "Information we disclose to third parties," AT&T explains that "we must disclose information when requested, to comply with court orders or subpoenas." AT&T defines CPNI to include information such as "billing records" and "calling habits or type of service." *See* SBC Privacy Policy, Exhibit G.

14. Verizon has a similar policy restricting the disclosure of information and provides that information may be disclosed when "it is required by law or to protect the safety of customers, employees or property." It also states that it "must disclose information, as necessary, to comply with court orders or subpoenas." *See* Verizon Privacy Policy, Exhibit F.

15. A recently issued Presidential Memorandum purports to give the Director of National Security the power to immunize these telecommunications companies from some liability for false statements they make in concealing matters of national security. *See* 71 Fed. Reg. 27941 (Copy attached hereto as Exhibit G).

The inconsistency of these statements and this shifting legal terrain underscore the need for an independent entity like the DPUC to conduct a review and uncover the truth. Based upon the above information, and pursuant to Title 16 of the Connecticut General Statutes including sections 16-11 and 16-6b, we respectfully request that the DPUC undertake an investigation to determine whether AT&T and/or Verizon have violated any rule of the DPUC or other Connecticut law. If either of these companies is found to have committed a violation, we further request that the DPUC take all appropriate action within its jurisdiction to ensure that such violations do not continue and to take such action as necessary to penalize such violations. We also request that the DPUC promulgate regulations pursuant to which such disclosure would be explicitly prohibited. Sample regulations are attached hereto as Exhibit H.

Very truly yours,

Renee C. Redman
Legal Director

Cc: AT&T
310 Orange Street
New Haven, CT 06510

Verizon New York
1095 Avenue of the Americas
34^{th} Floor
New York, NY 10036